

**REMARKS**

The Office Action issued by the Examiner on December 29, 2005 and the citations referred to in the Office Action have been carefully considered. Claims 20-79 are currently pending.

***Priority***

The Examiner indicated that the provisional application does not provide support for a visual narrative comprising sign language, as recited in claim 45. Applicants respectfully disagree. The provisional application clearly discusses how people with hearing loss can miss certain portions of a presentation. See Provisional Application, page 1. Further, the Provisional Application states that the "system can be combined with an existing audio stream for the hearing impaired, descriptions for the blind and/or language translation." The Provisional Application goes on to provide an example of such as implementation by stating that "[f]or example, the invention may provide for infrared streaming for assistive listening systems." See Provisional Application, page 3. Accordingly, it is clear that language translation is utilized in an assistive listening system.

Applicant respectfully submits that the term "language translation" does not necessarily require the translation of a first spoken language to a second spoken language. In the context of the hearing impairment discussion of the Provisional Application, the term language translation can include the translation of a spoken language into sign language so that people who are hearing impaired can visually see a portion of the presentation, such as a sound effect, on the portable device. Therefore, one of ordinary skill in the art will understand that a form of language translation is translating a spoken language into sign language.

Accordingly, Applicants submit that the claim for priority is adequate for claim 45 and all of the remaining claims.

***Double Patenting***

The Examiner has rejected claims 22-79 over claims 1-2, 16-18, 21-22, and 30-32 of U.S. Patent No. 6,785,539 on the ground of non-statutory obviousness-type double patenting. Upon an indication of allowable subject matter for the claims in their present form, Applicants intend on providing a terminal disclaimer to obviate the obviousness-type double patenting rejection.

***Rejection under 35 U.S.C. § 112***

The Examiner rejected claim 45 with respect to the written description requirement of 35 U.S.C. § 112. The Examiner asserts that the specification as originally filed does not support the content data being a visual narrative that comprises sign language. Applicants respectfully disagree. The Specification clearly discusses how people with hearing loss can miss certain portions of a presentation. See Utility Patent Application, paragraph 3. Further, the Specification states that the "system can be combined with an existing audio stream for the hearing impaired, descriptions for the blind and/or language translation." See Utility Patent Application, paragraph 7. The Specification even goes on to provide an example of such an implementation by stating that "[f]or example, the invention may provide for infrared streaming for assistive listening systems." See Utility Patent Application, paragraph 7. Accordingly, it is clear that language translation is utilized in an assistive listening system. As discussed above in the Section addressing Priority, one of ordinary skill in the art will understand that a form of language translation is translating a spoken language into sign language.

Accordingly, Applicants submit that claim 45 is in condition for allowance. Therefore, Applicants submit that the rejection of claim 45 should be withdrawn.

***Rejections under 35 U.S.C. § 102(e)***

The Examiner rejected claims 22, 24-34, 36-44, 46-49, 52-75, and 78-79 under 35 U.S.C. § 102(e) over U.S. Published Patent Application No. 2004/0044532 to Karstens ("Karstens"). Applicants submit that Karstens is not prior art because Applicants invented the claimed invention prior to September 3, 2002, the filing date of the Karstens patent application.

Applicants submit herewith a declaration under 37 C.F.R. § 1.131 ("131 Declaration"). The declaration provided by Greg B. Hale, Phu Nguyen, and William G. Wiedefeld establishes conception and diligence of the invention before the filing date of Karstens and diligence at least up until the constructive reduction to practice of the filing of U.S. Provisional Application Serial Number 60/421,255 on October 25, 2002.

### *Conception*

With respect to claim 22, Figure 1 in Exhibit A, which is referenced in paragraph 5 of the 131 Declaration, illustrates a viewer of a media presentation that is provided with a portable device. See Exhibit A, Figure 1. Further, the portable device is illustrated as being remote from the presentation of the media presentation. In addition, a notation in proximity to the portable device of Figure 1 indicates that the portable device can "receive/send IR messages," likewise as seen in Figure 2 the portable device can "receive/transmit RF messages." Further, paragraph IV of the patent disclosure, which is referenced in paragraph 6 of the 131 declaration, discusses a portable device for displaying information in synchronization with the presentation. See Exhibit B, paragraph IV. Accordingly, the patent disclosure and the figures depict "providing a viewer of the media presentation with a portable device, the portable device being remote from the presentation of the media presentation and capable of receiving wireless communications and displaying content data relating to the media presentation."

In addition, paragraph I of the patent disclosure discusses transmitting the content to the portable device. See Exhibit B, Paragraph 1. Therefore, the patent disclosure provides for "transmitting content data to the portable device."

The patent disclosure also explains that the portable device has a memory for storing the content data. See Exhibit B, paragraph V, subparagraph 4. Accordingly, the patent disclosure provides for "accumulating content data in the cache memory of the portable device."

Further, the patent disclosure explains how the portable device receives an IR or RF signal that can be converted to data to be stored and/or displayed in synchronization with a

presentation. See Exhibit B, paragraph V, subparagraph 4. Therefore, the patent disclosure provides for “transmitting at least one time prompt to the portable device, the time prompt triggering the content data to be displayed on the portable device such that the content data is displayed in synchronization with the presentation of a corresponding portion of the media presentation.”

In addition, paragraph VI of the patent disclosure, which is referenced in paragraph 6 of the 131 declaration, discusses a portable device for displaying data. See Exhibit B, paragraph VI. Accordingly, the patent disclosure provides for “displaying the content data on the portable device.”

Therefore, the elements of claim 22 are clearly set out in the evidence supporting conception.

#### *Diligence*

Further, Applicants have provided evidence attached to the 131 declaration that demonstrates the diligent effort to pursue development of the invention. Exhibit C, which is referenced in paragraph 7 of the 131 Declaration, provides a communication and a draft of a provisional patent application. The inventors were clearly working towards the constructive reduction to practice of patenting their invention.

Accordingly, Applicants invented the elements set out in claim 22 prior to the filing date of Karstens. Applicants submit that the rejection of claim 22 should be withdrawn.

Claims 24-34, 36-44, and 69-71 all depend from claim 22. In view of Karstens not being prior art, Applicants submit that Karstens cannot anticipate claims that depend from claim 1. Therefore, Applicants submit that the rejection of claims 24-34, 36-44, and 69-71 should also be withdrawn.

With respect to claim 46, the conception and diligence materials discussed above also corroborate that Applicants invented the elements set out in claim 46 prior to the filing date of

Karstens for the reasons discussed above. Therefore, Applicants submit that the rejection of claim 46 should be withdrawn.

Claims 72-74 depend from claim 46. In view of Karstens not being prior art, Applicants submit that Karstens cannot anticipate claims that depend from claim 46. Therefore, Applicants submit that the rejection of claims 72-74 should also be withdrawn.

Further, with respect to claim 47, the patent disclosure explains that the portable device can have infrared ports. See Exhibit B, paragraph V, subparagraph 4. Accordingly, the patent disclosure provides support for at least two receivers in the portable device. This support and the reasons discussed above corroborate that Applicants invented the elements set out in claim 47 prior to the filing date of Karstens. Therefore, Applicants submit that the rejection of claim 47 should be withdrawn.

Claims 75 and 79 depend from claim 47. In view of Karstens not being prior art, Applicants submit that Karstens cannot anticipate claims that depend from claim 47. Therefore, Applicants submit that the rejection of claims 75 and 79 should also be withdrawn.

In addition, with respect to claim 48, the conception and diligence materials discussed above also corroborate that Applicants invented the elements set out in claim 48 prior to the filing date of Karstens. Therefore, Applicants submit that the rejection of claim 48 should be withdrawn.

Claims 49 and 52-53 all depend from claim 48. In view of Karstens not being prior art, Applicants submit that Karstens cannot anticipate claims that depend from claim 48. Therefore, Applicants submit that the rejection of claims 49 and 52-53 also be withdrawn.

Further, with respect to claim 54, the conception and diligence materials discussed above also corroborate that Applicants invented the elements set out in claim 54 prior to the filing date of Karstens. Therefore, Applicants submit that the rejection of claim 54 should be withdrawn.

Claims 55-58 all depend from claim 54. In view of Karstens not being prior art, Applicants submit that Karstens cannot anticipate claims that depend from claim 54. Therefore, Applicants submit that the rejection of claims 55-58 should also be withdrawn.

Further, with respect to claim 59, the conception and diligence materials discussed above also corroborate that Applicants invented the elements set out in claim 59 prior to the filing date of Karstens. Therefore, Applicants submit that the rejection of claim 59 should be withdrawn.

Claims 60-64 all depend from claim 59. In view of Karstens not being prior art, Applicants submit that Karstens cannot anticipate claims that depend from claim 59. Therefore, Applicants submit that the rejection of claims 60-64 should also be withdrawn.

Further, with respect to claim 65, the patent disclosure explains that the portable device can be an interactive device. See Exhibit B, paragraph I. Accordingly, the patent disclosure provides support for “providing inputs on the portable device adapted to receive information from the viewer.” This support and the reasons discussed above corroborate that Applicants invented the elements set out in claim 65 prior to the filing date of Karstens. Therefore, Applicants submit that the rejection of claim 65 should be withdrawn.

Claims 66-74 and 78 all depend from claim 66. In view of Karstens not being prior art, Applicants submit that Karstens cannot anticipate claims that depend from claim 66. Therefore, Applicants submit that the rejection of claims 66-74 and 78 should also be withdrawn.

***Claim Rejections of claims 35, 45, 51, and 77 under 35 U.S.C. § 103(a)***

The Examiner rejected claims 35, 45, 51, and 77 under 35 U.S.C. § 103(a) over Karstens. Claims 35 and 45 depend from independent claim 22. Accordingly, Applicants submit that the rejections for claims 35 and 45 should be withdrawn because Karstens is not prior art in view of the 131 declaration discussed above with respect to independent claim 22.

Further, claim 51 depends from independent claim 48. Applicants submit that the rejection for claim 51 should be withdrawn because Karstens is not prior art in view of the 131 declaration discussed above with respect to independent claim 48.

Further, claim 77 depends from independent claim 47. Applicants submit that the rejection for claim 77 should be withdrawn because Karstens is not prior art in view of the 131 declaration discussed above with respect to independent claim 47.

***Claim Rejections of claims 23, 50, and 76 under 35 U.S.C. § 103(a)***

The Examiner rejected claims 23, 50, and 76 under 35 U.S.C. § 103(a) over Karstens in view of IR and RF being utilized to transmit data to devices. Claim 23 depends from independent claim 22. Accordingly, Applicants submit that the rejection for claim 23 should be withdrawn because Karstens is not prior art in view of the 131 declaration discussed above with respect to independent claim 22.

Further, claim 50 depends from independent claim 48. Applicants submit that the rejection for claim 50 should be withdrawn because Karstens is not prior art in view of the 131 declaration discussed above with respect to independent claim 48.

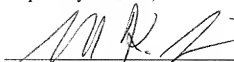
Further, claim 76 depends from independent claim 47. Applicants submit that the rejection for claim 76 should be withdrawn because Karstens is not prior art in view of the 131 declaration discussed above with respect to independent claim 47.

**CONCLUSION**

It is respectfully submitted that all of the Examiner's objections have been successfully traversed and that the application is now in order for allowance. Accordingly, reconsideration of the application and allowance thereof is courteously requested.

The Director is authorized to charge any additional fee(s) or any underpayment of fee(s), or to credit any overpayments to Deposit Account Number 50-2638. Please reference Attorney Docket Number 54317-022501 when charging any payments or credits in connection with this application.

Respectfully submitted,



Samuel K. Simpson  
Reg. No. 53,596

Date: June 29, 2006

Customer Number 46560  
GREENBERG TRAURIG, LLP  
2450 Colorado Avenue, Suite 400E  
Santa Monica, CA 90404  
Phone: (310) 586-6512  
Fax: (310) 586-0512  
E-mail: laipmail@gtlaw.com

LA 126566587v1 6/29/2006